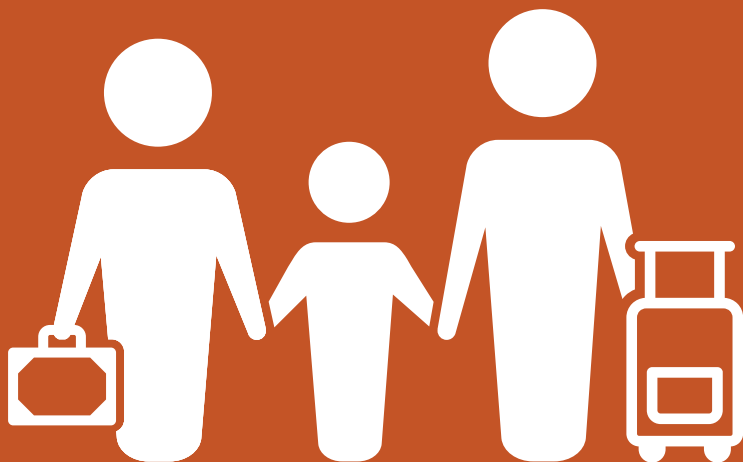

LAWFUL AND FAIR

**BUILDING A BETTER
MIGRATION SYSTEM**

WILL SOMERVILLE AND SARAH MULLEY



FABIAN SPECIAL

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EXECUTIVE SUMMARY	2
INTRODUCTION	6
CHAPTER 1 Understanding the starting point	10
CHAPTER 2 Enduring principles	14
CHAPTER 3 Reforming institutions: a more accountable migration system	17
CHAPTER 4 New goals for migration policy	23
CHAPTER 5 Policy reforms	26
CHAPTER 6 Immediate actions for a new government	35
ACKNOWLEDGEMENTS	38
ENDNOTES	39

EXECUTIVE SUMMARY

Migration policy in Britain is failing. It does not satisfy the right, who are dragged by their most extreme flank into a perpetually escalating and unwinnable bidding war over who can be the most draconian. It outrages the left, who see it, often correctly, as racism and inequality being encoded into our laws and institutions. It does not work for communities, it does not work for the economy, and it does not work for migrants themselves.

The British public want a sensible, workable, middle-ground solution – a fair and lawful migration system. Public attitudes to migration are warming, but persistent failures make it impossible for people to have much faith that the migration system is effective. The space created by this distrust is where toxic narratives about migration germinate. The solution is not to shut down people’s concerns, but rather to narrow the space for distrust in the migration system.

There is a Labour way to do this which is different from – and better than – the Conservatives’ cruel and ineffective policy around ‘stopping

the boats’. It will not satisfy the small minority whose concerns about migration are based on prejudice, nor should it seek to. It will not satisfy those who are sceptical of all migration rules, because we cannot have an open door. The centre-left offer must have rules, laws, and institutions. But unlike the current system, these must be based on sound principles. They must be fair, they must be grounded in democratic consent, and they must respect people’s rights under the law.

PRINCIPLES

The short-term media and electoral concerns which often drive policy cannot be wished away, and their strength makes it even more important to have a strong foundation of consistent principles which are supported across political boundaries. Without these principles, we end up with the directionless and contradictory system we have now.

Our first proposed principle is that **decisions about migration policy must be underpinned by democratic consent**. It is legitimate to make decisions about migration

policy, including who is admitted to the country, based on the values and interests of the UK population. There is currently a democratic deficit in how policy is made and rules are enforced. A legitimate system underpinned by democratic consent needs to be more accountable – to parliament and to the public.

Second, the UK is a democracy with **a commitment to individual rights under the law**. Policies which are themselves unlawful, or which would lead to unlawful infringements of individuals' rights, should be ruled out. This is not to say that legal frameworks cannot change and evolve, but progressive policy makers must recognise and defend the importance – to all of us – of governments operating within the constraints of law and individual rights.

Finally, **the process by which policy decisions are implemented must be fair**. That means fairness, dignity and respect for individuals, with decisions made in a consistent and transparent way. It also means making sure our laws and rules are enforced, including returning migrants who do not have permission to reside in the UK once legal redress has been properly considered and effective enforcement of labour laws.

ACCOUNTABILITY

For these principles to become a reality they must be embedded in enduring institutions and structures of accountability which ensure that government is held to them. But our current system lacks mechanisms for effective accountability, with power

heavily concentrated in the Home Office. This lack of accountability is a failure hiding in plain sight: reports and inquiries dating back two decades from across the political spectrum have repeatedly shown a lack of accountability to parliament, regional and local government, civil society and citizens.

There is virtually no faith among the public that the government has the will or ability to hold itself or anyone else to account on migration. Reprehensible gimmicks like the 'Rwanda plan' divert resources away from real solutions and further undermine confidence. We recommend restoring public confidence by starting closer to home, with more oversight and transparency of the migration system and structural changes to enable more effective delivery and cross-government working. Migration is a 'whole of society' issue and accountability needs to reach every level, with opportunities for both migrants and local communities to exercise their voice in the migration system.

We propose a number of reforms that could increase accountability, including the full implementation of the Windrush Lessons Learned Review and a new approach to integration policy led by the Department for Levelling Up, Housing and Communities, based on a full partnership between national, regional and local government.

POLICY GOALS

Governments need to set their policy goals according to their democratic mandate and the context at the time. The current government's goals are muddled and do not reflect

the post-Brexit context for international coordination or the long-term needs of the UK economy and communities. We propose three goals for the next government: international cooperation, social benefit, and economic contribution.

These goals are partly about policy that works (for example, there is no way to ‘stop the boats’ without effective coordination with the EU), but they also set positive goals for migration policy that would support a wider Labour agenda of economic growth and strong communities.

There are further proposals later in this pamphlet, but some key policies which exemplify these policy goals include:

1. International coordination: We recommend a new *national refugee policy* based on international agreements including a new partnership with France and the EU to tackle spontaneous maritime arrivals, and a commitment to the planned resettlement of at least 20,000 refugees a year in partnership with UNHCR. This policy will require new structures and resources to create an effective end-to-end system for decisions and arrivals. An immediate end to the Rwanda plan and a repeal of the mess of differing entitlements depending on route of arrival would free up considerable resources to increase the pace of claim processing.
2. Social benefit: We recommend that a new government adopt an affirmative goal of citizenship in the migration system, ensuring that as many migrants as possible

are supported to integrate on a path to citizenship to enable them to commit and contribute to the UK for the long term and become equal members of our society. This would include moving many decisions towards a ‘five-year’ route to settlement and citizenship by default, making an accelerated citizenship offer to those with settled status, and reducing application fees on the route to citizenship.

3. Economic contribution: We recommend a revised points-based system that is better linked to training and skills policy (especially in shortage occupations) to address both labour shortages and insufficient training for young people; and new policies and powers to reduce labour market exploitation.

CITIZENSHIP AND A ‘LARGER US’

The principles, accountability reforms and policy goals provide a framework for a fair and lawful migration system for the UK – one that will meet the needs of the country, and that the country can have confidence in; that is fair to migrants and meets our responsibilities to refugees; that gives local communities more say and migrants a better chance of becoming full members of those communities; that allows migration to contribute to building the economy we want for the future as well as solving problems in the economy we have now.

By restoring public confidence in the system, we can get past the current ‘us-versus-them’ rhetoric. By building policy around citizenship we can reward

and increase the contribution migrants make to our economy and society. For our own benefit, for our place in the world, and for those whose lives

and opportunities are directly affected by the migration system, we must make the case for integration, for citizenship and for a 'larger us'.

INTRODUCTION

Migration policy is about the people societies admit, how they are treated in the process, the opportunities they are permitted and how quickly and to what degree 'they' become 'us'.

Handled well, migration provides social, economic and international benefits to our society; as well as to the migrants who join us and become us. Handled badly, it can cause division, political polarisation, and a mismatch of benefits and costs between communities or places; as well as directly harming the wellbeing and prospects of migrants themselves.

In this pamphlet, we have generally used 'migration policy' to refer to a wide range of rules and practices which affect movements of people into and out of the UK and their treatment and entitlements in the UK. This covers areas of policy including immigration, asylum and refugee resettlement, citizenship and integration. Similarly, we have largely chosen to use the word 'migrants' to refer to all those who are new to the UK (including refugees and asylum seekers). This is partly for reasons of simplicity and readability, and partly in recognition

of the fact that different elements of the migration system are closely linked – in policy, in politics, and in people's lived experience. Furthermore, terminology in this field is understandably both contested and emotive and while all terms have drawbacks, 'migration' and 'migrant' seem less loaded than some others.

Migration is dynamic. People move subject to the pushes and pulls of conflict, persecution, climate change, professional opportunities, love and family. Migration is also a phenomenon that cannot be considered in isolation: for instance, decisions about our economic model (eg how we train young people) or about our place in the world (eg how we make trade agreements) have profound implications for the kind of migration system we need. The migration system in turn can have wider impacts on our economy (on less tangible metrics such as innovation as well as more obvious labour market outcomes) and on our society (the ramifications of the 'hostile environment' policies that led to the Windrush scandal are a case in point).

The UK public's views on migration, which are in part underpinned by people's long-held values and partly by the particular conditions in which migration takes place, are similarly dynamic and have changed substantially (and positively) in the last decade.

This change in attitudes comes at a time when the current UK migration system displays chronic dysfunction, compounded by cuts to national government functions and to local government. Problems – entirely predictable (and predicted) – have included a backlog of more than 170,000 asylum applications and temporary accommodation costs to house asylum seekers exceeding £2bn per annum.¹ It is also clear that the quality of decision-making in the immigration system has been significantly eroded, with the lack of accurate decisions compounded by limited appeal routes. This is well illustrated by the fact that the immigration judicial review caseload in both the Upper Tribunal and the Administrative Court now accounts for, astonishingly, around four-fifths of *all* judicial reviews,² while half of asylum cases that are initially turned down by the Home Office and reach appeal are overturned. The migration system also divides families and increases poverty, with over one million people subject to 'no recourse to public funds' conditions (including British citizen children), and yet *consistently* fails to meet control and enforcement targets.

Contemporary politics (on the right and the left) is too often characterised by protecting 'insiders' and penalising 'outsiders'. At the heart of this pamphlet is an argument – a must for progressive

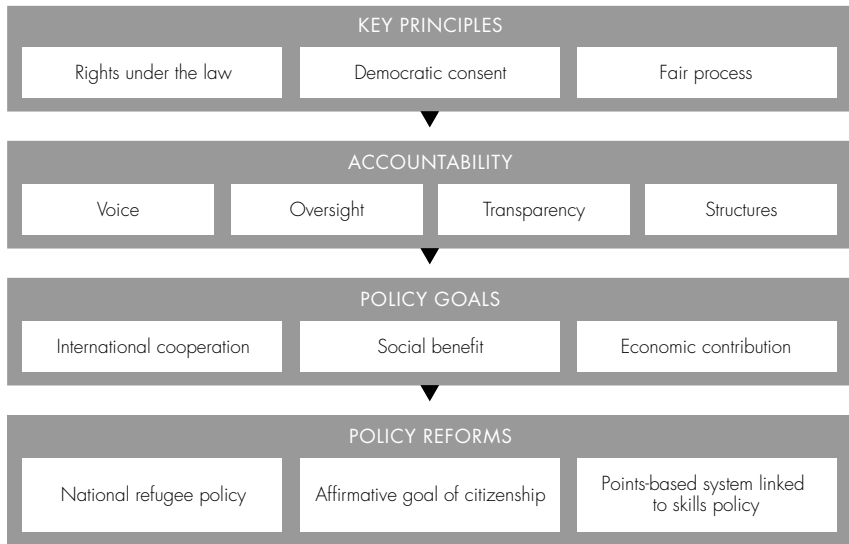
politicians – to resist this frame and instead to tell the story of a 'larger us', rather than a 'them and us' and to confidently make the case for a fair and lawful migration system. In our view, the dysfunctional status quo is not an option, but there is a path to public and political support for a new settlement that starts from firm foundations of principles and accountability and that reforms policy based on clear goals.

We have not sought to conduct a new analysis of the data, or to develop a suite of new policy proposals. Rather, this pamphlet aims to bring the excellent work of many experts together into a framework that would enable radical change in the UK's approach to migration and allow politicians and policymakers to balance different objectives and make consistent decisions on migration policy questions as they arise.

We proceed below by proposing some fundamental *principles* which should underpin the UK's migration system, regardless of the different policy goals which governments might set. We then argue that these principles need to be safeguarded by *accountable institutions*, in which powers are distributed and balanced, and suggest four key institutional reforms to achieve this accountability. Without such reforms, we anticipate that the systemic disfunction and chronic problems that have bedevilled UK migration policy will not be properly addressed.

We go on to suggest that the UK migration system should be reorientated around three new *policy goals*: international cooperation, social benefit and economic contribution.

FIGURE 1: PRINCIPLES – ACCOUNTABILITY – GOALS – REFORMS IN MIGRATION POLICY



For each goal we propose some simple tests which policymakers could apply in making decisions.

In the final sections of the paper we set out some priority *policy reforms* which could promote these goals in the coming years. Finally, we conclude with some reflections on what a new government will face if they adopt the framework described in this paper, before outlining steps that could be taken in the first 100 days of a new administration.

The case for proactively seeking a paradigm shift may not be obvious to the next government. Polls suggest it likely that it will be a Labour or Labour-led government that will next face the challenges of migration policy. Labour governments and oppositions have spent much of the last half century responding to a Conservative agenda

on migration and have been punished by voters in the past for some of their positions. Labour has tended to operate in reactive mode because it thinks of migration as a point of political weakness. While Labour is trusted on matters related to integration and fighting discrimination,³ voters have been wary of the party's ability to manage the migration system in the public interest. Nonetheless, a combination of changing attitudes, with polling showing both more positive attitudes towards immigration (see below) and a loss of trust in the Conservatives (who are increasingly seen as both cruel *and* incompetent), has changed this position. Labour have had a small but relatively consistent lead in polling on migration over the last 12 months.⁴ This lead may well be 'soft' and there may be particular voter groups that are

persuadable by fear-based messaging, but it highlights the potential political space for a new approach, one grounded in a secure and effective system that delivers control, competence and compassion – *a fair and lawful migration system*.

This pamphlet is about a long-term programme for government, not a campaign proposition. But we are confident that this programme meets two 'real world' tests: political and economic.

First, the fair and lawful migration system we propose is one that could be confidently presented as part of an effective political strategy. We believe that the political work of reform would pay dividends for progressive politicians. Immigration is a tool used by authoritarian nationalist populists to polarise electorates for political gain. Accountable, well-functioning, rules-based migration systems

which meet the goals set by elected governments offer a powerful antidote and are the only viable inoculation.

That means dignity and fair process, as well as confidence that the system will deter those not permitted to enter, and that government will ensure that rules are implemented consistently in the public interest.

Second, the programme outlined would offer better value for money for the taxpayer. This programme is one that we anticipate would be enacted over a period of years and we give some consideration below to the immediate steps that a new government could take to set a reform programme in motion, including actions to ensure that initial reforms are cost/revenue neutral. Some proposals would need detailed modelling as part of this process, but many are prima facie cost *savings* (such as scrapping the ineffective and expensive Rwanda scheme).

CHAPTER 1

UNDERSTANDING THE STARTING POINT

Politicians and policymakers seeking to reform the UK's migration system need to be realistic about the challenging history and context that they face. Our public debate about immigration has long been characterised by widespread public concern and a lack of effective political leadership; and our migration system by ineffectiveness, discrimination, chaos and cruelty.

After a period (starting in 2010) when UK migration policy was driven by a poorly thought-out target to reduce net migration, the post-Brexit regime has been struggling to manage tensions between a Conservative political objective of control⁵ and the need to respond to events including labour shortages, economic turmoil, conflicts (including Afghanistan and Ukraine) and a significant increase in Channel crossings.

In response, the government has tried to build a migration system shaped by the single goal of economic benefit (admitting those judged to have economic value), while also

reacting to events such as Ukraine with ad hoc schemes. Major laws passed in 2014, 2016, 2020 and 2022 (and the current legislation currently being debated in 2023) alongside *thousands* of immigration rule changes over the last decade⁶ are designed to create – in the words of prime minister Theresa May – a ‘hostile environment’⁷ to deter unwanted migration.

But this approach has not reduced the overall numbers of migrants coming to the UK. Net migration reached 606,000 in 2022⁸, a high annual figure even in the context of net migration figures that add up to 6.3 million people over the first 20 years of this century.⁹ Nor has it deterred ‘unwanted’ migration.

It has instead led to a (largely) functioning and economically beneficial system for wealthy families, students and high-skilled migrants plus those deemed ‘wanted’ such as Hong Kongers, Ukrainians and those given settled status; and a failing and expensive system for others epitomised by the headline issue of Channel crossings.

By last winter, the situation was urgent and chaotic enough to make migration policy reforms a signature initiative of the first months of Rishi Sunak's premiership, culminating in a statement to the House of Commons on 12 December 2022.¹⁰ The Conservative government has subsequently introduced a poorly executed backlog clearance programme and a new Illegal Migration Bill (which, at the time of writing, is being ushered through parliament with reduced scrutiny). The bill makes a renewed commitment to the government's unworkable Rwanda plan, commits to barring refugee applications from spontaneous refugee arrivals (in technical jargon, it makes claims inadmissible, which according to UNHCR breaks the Refugee Convention), and acknowledges the high risk of incompatibility with the UK's existing commitments to human rights. In short, it seeks to shut down the right to claim asylum in country, and will provide an enormous challenge to future public servants and governments to resolve. There has been almost unanimity among observers that the legislation will not achieve its stated objectives.

The government's approach, including the current bill, has focused almost entirely on immigration at the border, overlooking inclusion and integration of refugees and migrants once they are in the UK. Since reforms to the settlement and citizenship processes were completed nearly 20 years ago, citizenship has been left largely to individuals to navigate, while

significantly reduced funding for local government, in concert with efforts to limit access to services, has limited the ability of communities and local government to support and develop inclusive strategies in education, housing and shared spaces. Immigration rules, processes and fees further limit inclusion and long-term settlement for some groups.¹¹ For example, an estimated 330,000 young people who are entitled to UK citizenship do not have it, with fees and costs a major barrier to accessing their rights.¹²

This failure to focus on integration and citizenship, combined with the design and implementation of the 'hostile environment', has led to hardship and discrimination in the UK and created barriers to people's (including children's) opportunities,¹³ with little apparent impact on either migration flows or effective enforcement of the rules.

This was most clearly revealed by the Windrush scandal – a heinous failure of public service. The then Home Secretary, Amber Rudd, resigned in the wake of the scandal, and it eventually led to a compensation scheme and a Lessons Learned Review, conducted by Wendy Williams. The compensation scheme has been widely condemned as inadequate and comprehensively revised, but it is still failing: by the end of 2022, more than four in 10 applicants for compensation had not received a final decision.¹⁴ Thousands of people affected by the Windrush scandal still have not secured their status. Key Windrush Review recommendations have not been implemented, among

them a Migrants' Commissioner. The government recently confirmed these will not now be implemented, breaking a promise made by successive Home Secretaries and Home Office ministers.¹⁵

This recent history can lead to pessimism about the potential for change, but this underweights two critical factors.

First, there has been an obvious change in the structural constraints that have previously limited governments' ability to establish a new framework for migration policy. Put simply, since leaving the EU, the UK no longer offers free movement rights and the government has gained autonomy over its borders; decisions about migration policy are now made in Westminster.¹⁶ Total *autonomy* over migration policy and borders is different from total *control* over migration flows and the UK government still faces difficult trade-offs in setting migration policy, but these trade-offs are theirs to make¹⁷.

Second, there has been a significant shift in public opinion, with a gradual warming of attitudes since at least 2016. The UK public has become more positive about refugees and migrants. The reasons for this are complex and not fully understood but it is important to underline that this has not been driven by reduced immigration (numbers are at a record high). In fact, recent migration patterns may have contributed to an increased public understanding of the economic and social contributions of migrants, for example in the context of post-Brexit labour shortages and pandemic-related

pressures on public services. It also seems highly likely that the change in public attitudes has been driven at least in part by the shift in responsibilities described above – public perceptions of consent for and control over migration policies seem to be an important part of the story.¹⁸

The long-running longitudinal MORI tracker is unequivocal in its findings of a positive shift. For immigration overall, support for *reducing* immigration is at its lowest level since the tracker survey began in 2015. Four in 10 people (42 per cent) would prefer immigration to be reduced, 26 per cent that it stays the same and 24 per cent that it increases. Since polling began properly in the 1960s, there has always been majority support for reducing immigration – the latest findings suggest a genuine change in the public's views, at a time when immigration levels have remained high by historic standards.

The tracker also shows that more people now feel that immigration has had a positive effect on Britain (46 per cent) than a negative effect (29 per cent). When the tracker survey was first conducted in February 2015, by comparison, it found only 35 per cent were positive while 41 per cent were negative. These findings are not outliers – they are shared in qualitative and quantitative findings from a range of pollsters and other official sources.¹⁹ It is also a consistent trend across a range of polling questions – for example, positive answers to a common question “does immigration enrich society?” recently topped 50 per cent in several polls for the first time while

less than a third of the public answered affirmatively a decade ago.

Migration is also seen by the public as less of a priority than in the past. Salience (ie whether it is an important issue to people) has dropped substantially. From immigration being the “top issue facing the country” in some years and one virtually never out of the top three issues over many years, immigration has been hovering in and around the 10th most important issue (sometimes falling out of the top 10). The current rhetoric around Channel crossings and the Illegal Migration Bill has raised its salience and at the exact time of writing (as the immigration statistics are being released) has re-entered the top five issues but it is still significantly below the levels of a decade ago – dropping from around 40 to 50 per cent citing immigration as a top issue to only around 20 to 25 per cent.²⁰ The government and media are arguably lagging behind the public on migration, and policies and announcements are seeking to raise salience against the grain of public opinion and priorities.²¹

The reason this change in attitudes is slow to feed into policy is threefold. First, the electoral geography of opinion still favours sceptics. Using the classic ‘fewer/ more immigrants’ question we see that three-quarters of constituencies somewhat favour fewer

immigrants. A small number of strongly pro-immigration constituencies in urban areas are outnumbered three to one by mildly immigration-sceptical constituencies (although in many of these opinion is close to evenly divided). Second, those voters that oppose immigration make up a larger part of the Conservative base and are more likely to prioritise the issue intensely.²² Thus while it is now not a top five (or often not even a top 10) issue for voters as a whole, for Conservative voters it has been ranking in the top three. Third, although evidence suggests that the shift in public attitudes is real and sustained, it is a complex and nuanced picture which can be hard for politicians to interpret in real time, especially when faced with urgent crises.²³

Reformers should approach the UK migration system with these important changes uppermost in their minds. The system is now malleable after the UK’s decision to leave the EU, but has been shaped into one that has mistaken numbers for control and headline-grabbing measures for an orderly system; has overlooked inclusion and integration completely; and has introduced a thicket of laws and rules that have failed to deter politically-unwanted migrant groups. In parallel, public support for refugees²⁴ and migrants has risen and concern about immigration has fallen.

CHAPTER 2

ENDURING PRINCIPLES

A policy tends to be stable when it is consistent with public preferences; when it is seen by the public, interest groups and the media as effective and fair; and where there is either a robust political coalition for maintaining it and/or no substantial minority coalition that seeks to change it as a primary priority. The first part of this paper has shown such conditions no longer, or barely, apply to the UK's current migration policy, suggesting the conditions exist for change in the years ahead.

However, change will not be easy. In our view, the migration travails of successive Home Secretaries and governments can only be explained by deep-rooted systemic problems, especially weak accountability.

We therefore start with principles rather than policy goals because history shows us that making migration policy without a clear set of principles often leads to reactive and reductive politics, incoherent policy decisions and inhumane treatment of individuals.

Firstly, decisions about migration policy must be underpinned by **democratic consent**. It is legitimate to make decisions about migration policy, including who is admitted to the country, based on the values and interests of the UK population. In a representative democracy this does not mean that everyone must support every policy, nor that every policy must command a majority. It *does* mean that governments must be accountable – to the public and to parliament – for their policies and decisions, and makes it essential that policy is well communicated and understood. At present, there is very limited parliamentary oversight of migration policy (see below) and no formal role (despite differing costs and benefits) for local government, or for devolved national and regional government.

Second, the UK is a democracy with a commitment to individual **rights under the law**. This is the basic standard against which our migration system should be judged.

Policies which are themselves unlawful, or which would lead to unlawful infringements of individuals' rights, should be ruled out. In other areas of policy this largely goes without saying, but it is often explicitly or implicitly contested in the context of migration policy.²⁵ Indeed, recent UK history offers many examples of governments seeking to challenge or change fundamental legal frameworks in order to pursue particular migration policies (eg discussions about disregarding the UN Refugee Convention, or the UK leaving the European Convention on Human Rights). This is not to say that legal frameworks cannot change and evolve (see below on international cooperation), but progressive policy makers must recognise and defend the importance – to all of us – of governments operating within the constraints of law and individual rights. A commitment to individual rights under the law is an essential underpinning for personal freedoms in our democracy.

Finally, the process by which policy decisions are implemented must be **fair**. That means fairness, dignity and respect for individuals as they go through the migration system, with decisions made in a consistent and transparent way. It also means that laws and rules can and should be enforced, including by returning migrants who do not have permission to reside in the UK once legal redress has been properly considered, and clarity on deterrence measures and how the system can be made secure. The effective and orderly operation of systems and services is in everyone's interests, and is essential

for maintaining meaningful democratic consent, since there is little point in making policies that reflect the interests and values of the UK if they are not then implemented in practice. Consistent with this, laws and rules should not be made unless there is willingness, capability and capacity to implement and enforce them.

These principles should not change when governments do, while policy goals (see below) may be expected to do so. As such, these principles should be embedded in enduring institutions and structures of accountability which ensure that government is held to them (we describe four key institutional reforms to promote accountability below).

Migration is an area where government has direct and significant powers over individuals (including powers of detention, for example). It is essential that such powers are governed by clear frameworks of accountability and law.

It is clear that the UK's current migration system does not live up to these principles. Government policies and decisions have regularly been found to be unlawful and/or inconsistent with individuals' rights; democratic accountability is weak; and the treatment of individuals has too often been unfair, while rules are inconsistently enforced. This is fairly self-evident – for example, decisions are regularly overturned, with more than half of asylum appeals allowed in the year to September 2022. The set of rules making up the 'hostile environment' have placed many long-term residents and citizens at the mercy of rules which

are arguably intrinsically discriminatory and where discriminatory treatment has been evidenced and upheld as such in the courts. The most obvious example is the deplorable treatment of British citizens in the Windrush scandal, which involved 83 deportations and immense, untold damage to thousands.

There is a legitimate debate to be had about policy goals (see below), but a migration system which does not meet these basic principles can never be considered as fit for purpose. Building consensus around these principles across the political spectrum should be a core goal of everyone advocating for a well-run migration system.

CHAPTER 3

REFORMING INSTITUTIONS: A MORE ACCOUNTABLE MIGRATION SYSTEM

If we step back from the UK migration system and look at other comparable countries, there are similarities as well as differences. But the UK is a clear outlier in one crucial respect – there is almost complete centralised control within the executive and within one department in the executive, namely the Home Office.

From a governance perspective, there may be some advantages to concentrating power in one Whitehall department – for example, flexibility and agility to respond to changing external circumstances – but the disadvantages are more substantial. The Home Office is short-termist, especially susceptible to immediate media and political reactions (this is an area of government where it is arguably too easy to change policy on the hoof), and falls short on both effectiveness of administrative delivery and rule-of-law standards of governance.²⁶ Over time, political rhetoric from ministers about migration as a threat to be managed

has created a culture in the Home Office which treats it as such. It is also pertinent to note that the current system has created both political incentives for cruelty and heavy political penalties for Home Secretaries who find themselves personally and directly responsible for the detailed operation of an incredibly complex and problematic system.

This concentration of power inside the executive (in a political system that is already very centralised), in concert with the fact that many migrants are not voters or citizens,²⁷ produces a major accountability gap. The lack of accountability is a failure that is hiding in plain sight: reports and inquiries dating back two decades from across the political spectrum have repeatedly shown a lack of accountability to parliament, regional and local government, civil society and citizens.

We therefore argue that the radical reform programme envisaged in this paper requires an overhaul of institutions

and systems in one specific way – there must be an unyielding focus on improved *accountability*. Accountability, of different kinds, would help to safeguard and promote all of the principles set out above – reducing the likelihood of governments making policies or decisions which are unlawful, and allowing individuals and groups to more easily secure their rights under the law; furthering democratic consent through effective parliamentary oversight and citizen engagement; and increasing procedural fairness and consistent implementation of policies and rules.

It is natural to move from this insight to calls for a ‘machinery of government’ change in Whitehall – for example the many recommendations seeking to break up the Home Office.²⁸ We are actually enthusiastic about some changes to the structures of the Home Office (see below),²⁹ but we believe that accountability requires broader action.

We recommend four mutually overlapping and reinforcing institutional reforms to increase accountability. These reforms are: new methods of inserting *voice*; new forms of democratic, and especially parliamentary, *oversight*; assertive efforts to improve *transparency* in the system; and changes to institutional *structures and resources*.

We are fortunate that the dedicated work of select committees; government-commissioned reviews, regulators and inspectorates; civil society advocates and independent researchers has already set out many ways that accountability can be improved.³⁰ We identify a few priority reform ideas below; ones we believe

would make a substantial difference and where there is momentum to make change with limited cost.

VOICE

First, there must be increased *voice* – of the public, of migrants, and of local communities – in the migration system. An axiom of good policy is robust feedback loops between those impacted and those making policy. Currently this fails on two fronts: local government and local communities have little ability to work with the Home Office and are often cut out of decisions, which has clear implications for the principle of democratic consent; while migrants and their families have virtually no redress or input at all, which limits their ability to secure their rights under the law or to demand fairness.

To increase migrant voice, we would recommend the introduction of a new Migrants’ Commissioner, with statutory inquiry powers and proper resources, focused on bringing the experience of migrants to government, which adapts a recommendation made in the Windrush Lessons Learned Review.

To increase community voice, we recommend a statutory role for the Scottish Executive, Welsh Assembly, metro mayors and regions, and local government in both allocating and accepting refugees above a minimum agreed level, and alongside this, devolved budgets and powers to enhance integration. This might build and complement the new momentum behind devolution and decentralisation (seen in the levelling up or local compact agendas) and

would help to reduce some of the very significant disparities which currently exist in the resources which different local authorities have to respond to migration in local communities. Effective integration policy requires collaboration between local, regional and national government on issues including skills, language support, employment, and housing, and there should be a much stronger voice for regional and local government in this area. We argue below for a new 'community welcome' route that would provide communities with the agency to sponsor people directly, which could further enhance community voice.

OVERSIGHT

The second major institutional reform should be to increase democratic and parliamentary *oversight*. Unlike many countries where migration policy development is undertaken by the legislature, or federal systems where there are often shared governance arrangements, in the UK nearly all policy development (as well as redress and accountability) sits in the Home Office. There is virtually no parliamentary oversight. The Home Office lays hundreds of immigration rules annually and the system is mainly directed through secondary legislation. Immigration rules are rarely debated in Parliament and cannot be amended. We have to go back to 1982 for the last time parliament rejected immigration rules.³¹

To strengthen oversight, we would recommend a further simplification process of immigration law so that parliamentary oversight can be properly

exercised.³² As the Law Society has advised, simplification is especially necessary because the current tangled complexity of immigration law also impedes clear, simple approaches to making decisions and resolving cases.³³

A triage process under the Home Affairs Select Committee to prioritise oversight for proposed immigration law and rule changes would increase oversight and allow immigration rules to be interrogated more deeply.³⁴ We also think an annual migration report and annual migration debate in parliament would bring focus.³⁵

We would also recommend strengthening the independence (via statutory footing) and resources of the Chief Inspector of Borders, which adapts the recommendation made in the Windrush Lessons Learned Review. Devolution and decentralisation as proposed above – with legal and financial roles for local and regional government – would also increase oversight, especially around inclusion and integration and the resettlement of refugees.

TRANSPARENCY

Third, there must be a commitment to increased *transparency* in the migration system. A trustworthy system, a system that is procedurally just, is one that has transparency about the rules on which it is based and the decisions it produces. The migration system is highly complex, both evidentially (as the evidence may be incomplete or conflicting) and conceptually (working within a very complicated legal framework), and trust in the system would be increased if it were more transparent.

In addition, there has been significant use of outsourcing and contracting, which has made the system even less transparent. The Home Office contracts with for-profit companies for housing, detention and deportation services with complex and often inaccessible service agreements, often funded from non-Home Office budgets which are hard to scrutinise (for example the ODA budget for housing refugees). Such relationships would better serve the public interest if they were more transparent and with clearer budget accountabilities.

Under transparency, we would recommend building on the 'One Home Office' programme and comprehensive improvement plan (CIP), which was instituted in part as a response to the Windrush scandal. An additional management reform should be prioritised: digitisation of paper-based processes and investment in technology-based administration (including more digital/online application processes), building on what worked with the broadly successful EU settled status process. In particular, government should prioritise a transparent 'decision dashboard' to allow applicants and their representatives to easily see the status of a case, which would reduce costs and stress for applicants.³⁶

Transparency should include the timely publication of reports (the Home Office often blocks publication of independent scrutiny reports and releases them in batches, which undermines public scrutiny)³⁷. The Home Office should improve data collection, but already holds

a variety of data sources that could be made available to researchers, other departments, local government and civil society. We also recommend transparent publication of the details of algorithms upon which automatic decisions are made³⁸ and the publication of clear data sharing agreements between government departments and agencies.

STRUCTURES AND RESOURCES

Finally, we recommend changes to institutional *structures and resources*. The UK is not only unique in the power vested in the executive on migration, but also has a highly centralised system even within Whitehall. Other countries arrange their structures differently (business visas in the business department and so on) and the combination of a centralised democracy with a centralised executive department is highly unusual.

The Home Office makes the rules, implements the rules and mostly decides whether it has done a good job by itself – it sets and marks its own homework. Meanwhile, bodies like the Migration Advisory Committee or the Chief Inspector of Borders and Immigration, created in the teeth of Home Office opposition and with highly curtailed and insufficient powers, have proved their worth repeatedly.

Under structures and resources, we would recommend two major changes – to refugee and asylum determination, and to integration policy.

First, we support transferring functions and budgets for refugee and asylum determination to a new body, the UK Refugee Service, which

would be a non-departmental public body reporting to four departments: the Home Office, the Foreign Commonwealth and Development Office, the Department for Levelling Up, Housing and Communities and the Ministry of Justice³⁹. These departments have worked together on refugee resettlement (including Syrian, Afghan and Ukrainian resettlement) and this would encourage effective links with integration (see below) and help align budget-related incentives (including between the Home Office and Ministry of Justice).

Second, we recommend that policy leadership for refugee and migrant *integration* is moved to the Department for Levelling Up, Housing and Communities, and for associated budgets and responsibilities to be devolved to local, regional and devolved administrations. The current approach, involving different cohort-based programmes, is inefficient and counterproductive but has demonstrated the potential of a place-based approach to integration delivered at the local level. This will need a cross-Whitehall, cross-government approach but will also mean working with stakeholders in business and in civil society, and in particular in local communities. DHLUC is best placed to do this.⁴⁰

We set out the proposed major overhaul of institutions in Figure 2 on the next page. While the specific reforms proposed here, or others like them, need further evaluation, any change programme needs to address the central challenge of accountability and do so over the longer term.

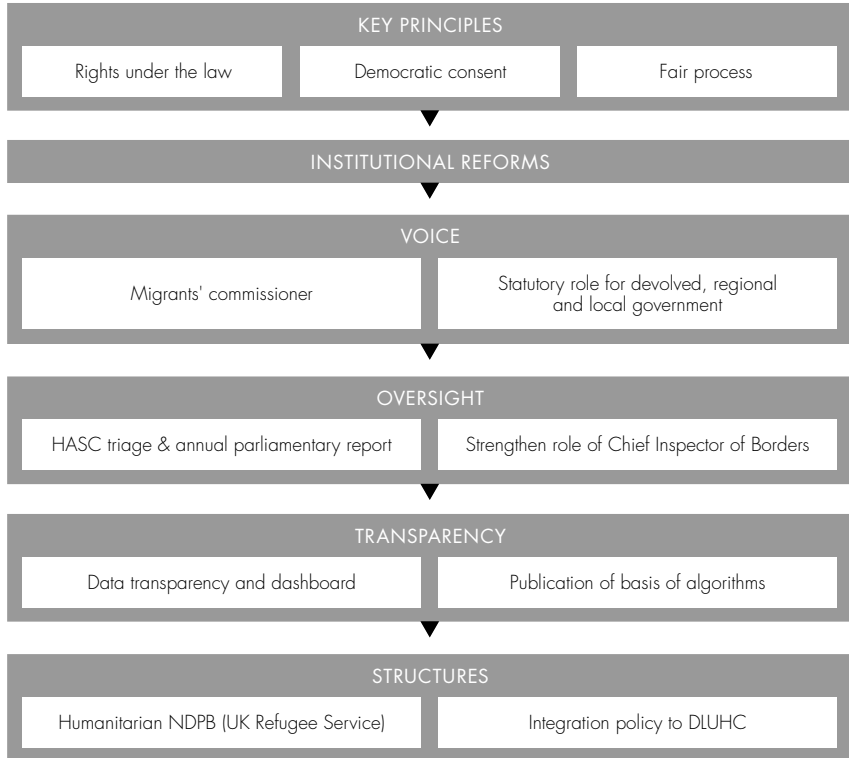
We therefore argue for a comprehensive and holistic approach that brings together reforms to increase voice, oversight, transparency alongside resources and structures. In our view, the key question that ministers must ask of any proposed institutional reform is: *does this serve and promote the principles set out above, in the public interest, through increased accountability?* A public interest test against the key principles would help determine progress, or not. Consistently applying such a test would move us beyond the specific deliverables related to particular policy goals (see below) and make a major contribution to solving the dysfunctionality in the system.

The political case for accountability must also be made. The reforms outlined above would reduce the executive's ability to move quickly and would reduce individual politicians' powers in government. There are also risks of "theatre" with other political actors taking advantage of accountability measures to raise their own profile. But there is a strong political case for strengthening accountability. In particular, this is an essential pre-condition of building public trust and making government work effectively in the long term. More effective governance of the migration system would enable politicians to lead proactively rather than leaving them at the mercy of constant fire-fighting in a dysfunctional system. The counterclaim – that politicians will be held accountable in the Home Office for decisions made by bureaucrats – has some truth. However, the current

system also imposes heavy political penalties on ministers. It may allow them to control many elements of the

system directly, but it also prevents them from exercising effective strategic leadership.

FIGURE 2: PRINCIPLES, INSTITUTIONAL REFORM FOR INCREASED ACCOUNTABILITY



CHAPTER 4

NEW GOALS FOR MIGRATION POLICY

The fundamental principles set out above, safeguarded by accountable institutions, would be consistent with any number of policy goals set by governments. Indeed the principle of democratic consent *requires* that governments be able to set, and change, the goals of migration policy in line with the interests and values of the UK population.

In light of the recent history of UK migration policy, and the wider context that the UK now faces, we propose three new policy goals to guide UK migration policy in the coming years.

First, *international cooperation*.

We recommend that the UK takes a global leadership role in improving the safety and security of migrants. While some may see international cooperation as a means to an end, we believe that it should be a policy goal in its own right – the UK can and should play an important role in maintaining and improving an international order which secures key rights for individuals

and allows costs, risks and benefits to be shared between countries.

The primary international goal should therefore be effective multilateral and bilateral engagement on migration issues. That means the UK making a renewed commitment to the UN Convention on Refugees and engaging more proactively with initiatives including the Global Compact on Refugees.⁴¹ It also means active engagement with the question of how this area of international law should develop in the future. In doing so, the UK can make an important contribution to countering retrenchment and beggar-thy-neighbour policies in the international refugee protection system. In a post-Brexit context, the UK also needs a new strategy for bilateral engagement, both with our European neighbours (including on immediate issues such as Channel crossings) and with the wider world. It is clear that migration policy will be important in future trade deals, for example,

with issues around student and youth mobility already central to a number of key negotiations.

Questions ministers should ask

Is a given policy decision consistent with the spirit and letter of the Refugee Convention and other international law/treaties? Does it further effective bilateral or multilateral cooperation on migration and other issues?

Second, *social benefit* – we understand migrants coming to the UK as part of a joint effort to build a shared society where all newcomers commit and contribute for the long term. Policy should catalyse and accelerate the process of migrants becoming ‘us’ – joining our democracy as equal citizens with equal rights as quickly as reasonably possible.

The primary social goal of the migration system should therefore be to support and encourage successful integration, enabling migrants to participate, contribute, and build long-term relationships and communities with the rest of us, unlocking their talents and being confident in the shared community and nation we can create together.⁴² This maximises the social (and indeed economic) benefits of migration for all of us. It would also go some way to address the legacy of discrimination created by past policies. We propose below that the migration system should be designed so that the default position (with limited exceptions)

is that all migrants are placed on a path to British citizenship. This would mean that migrants who want to commit and stay are able to do so on an equal footing, the number of people at risk of finding themselves with irregular immigration status as they move through the system is reduced, and some sources of potential discrimination and inequality are removed.

Questions ministers should ask

Does a given policy decision increase the proportion of migrants who are supported on a path to citizenship? Does it decrease the proportion of migrants who are at risk of irregularity and/or discrimination?

Third, *economic contribution* that increases UK per capita income, with the aim of seeing economic benefits spread as widely as possible (including through the tax system), in particular to lower income households and communities.

The primary economic goal of the migration system should therefore be to ensure that existing UK citizens benefit from the talents newcomers bring and the wealth they generate; while also improving, not undermining, the economy we want to build for the future. The immigration system should aim to create economic growth, incentivise training and investment, and protect workers’ rights. Much of this goal will obviously depend on wider economic policies (including the tax and benefit system), but we argue below that there should be a stronger connection

between migration policy and these wider policies (for example skills policy and employment regulation). Steps should be taken to ensure that there is not a mismatch of costs and benefits which negatively affects particular communities or groups, and there should be a particular focus on the impact on lower income households.

Questions ministers should ask

Does a given policy decision produce a direct or indirect economic benefit to the UK population, in either the short or the long term? Are any additional policies required to deliver economic benefit to lower income households, in either the short or the long term?

Some policy decisions will meet all three of these goals. In other cases there will be trade-offs between them. For example, student migration brings huge economic benefits to the UK, but inevitably involves a good deal

of short-term migration, which can pose challenges when viewed through the lens of integration and community. New systems of accountability and scrutiny (see above) will be particularly important in these cases, to allow these trade-offs to be discussed, weighed, and managed.

Some may feel it inappropriate to apply all of these goals to some elements of the migration system. For example, individual decisions about who will receive refugee protection in the UK cannot and should not be determined by economic goals. However, we believe that there are benefits to considering all three policy goals across the piece. For example, it is both legitimate and important to consider how an effective integration policy can help refugees succeed in the labour market and therefore maximise their economic contribution to the UK. For any given policy decision one goal may predominate. But policymakers need to maintain an overview of how the whole system furthers the goals that are set for it.

CHAPTER 5

POLICY REFORMS

Migration issues have been at the forefront of public and political debates for decades. This has naturally prompted deep interest from policymakers, parliamentarians, research institutions, charities and campaigners. There are – literally – hundreds of policy ideas and recommendations that have been made in the last decade alone. For instance, the 30 recommendations contained within the Windrush Lessons Learned Review offer one blueprint for reforms to the Home Office; the Joint Council for the Welfare of Immigrants’ People Move report brought together a similar number of recommendations from across civil society; while Thom Brooks’ 2022 Fabian Society pamphlet set out a broad range of detailed proposals for reforms across the migration system.⁴³

Even these compilations of reforms barely touch the sides of what has been recommended by think tanks from across the political spectrum, by different levels of government across the four nations of the UK, or by the many reports of the Home Affairs,

Public Accounts, and Human Rights Select Committees.

Our approach in this section is not to try to audit, list or combine these many recommendations (even while we agree or are sympathetic to many of them). Rather, we want to highlight ideas – many developed by others – that meet three thresholds: consistency with the principles and institutional reforms set out above; potential to provide significant benefits with respect to one or more of the three policy goals of international cooperation, social benefit and economic contribution; and, lastly, proposals that are feasible to implement in the shorter term (i.e. within the first term of a new government) but that will have long-term impact.

INTERNATIONAL COOPERATION

Under the international cooperation goal, we believe three key policy reforms would be:

1. First, a new national refugee policy⁴⁴ that is multilateral and international – working with

partners to change conditions facing refugees across the world – that also has a credible plan for solving the problem of Channel crossings and supporting local integration for refugees. Given the salience of refugee policy in the current debate, we do a deep dive below into constituent elements of a proposed new national refugee policy.

2. Second, a new international education strategy, where international students are recognised as an essential part of our knowledge economy and our soft power as a nation, where academics at risk of harm are offered sanctuary, and where our world-leading higher education institutions are incentivised to build partnerships with like-minded institutions across the world. A new international education strategy to unlock the talents of migrant students would involve the Home Office working across government (with the Foreign Office; the Department for Education; and the Department for Science, Innovation and Technology) and with universities to build a concrete offer for international students, and helping to build a new academics-at-risk route as part of the national refugee policy (see below).
3. Third, a new approach to youth mobility. This would include the introduction of a two-year young person visa for those under the age of 30 that would not be tied to an employer, with a route to in-country applications to work permits for those who qualify. This route could be targeted

to those countries where the UK has a particular strategic interest – for example as part of a future agreement with the European Union.

Developing and instituting these three reforms would significantly enhance the UK's impact internationally in responding to global challenges, would improve important bilateral and multilateral relationships to the ends of solving immediate problems, and would build 'soft power' in the medium to long term.

NATIONAL REFUGEE POLICY

A national refugee policy is key to international cooperation, but also for the two other policy goals (social benefit and economic contribution). Refugees bring talent, skills and agency that strengthen our communities and economies.

A functional refugee policy requires an orderly system for refugee arrivals, international agreements (bilateral and multilateral), and an effective end-to-end system. This is an area where new structures are critical but also where parliament could increase its oversight.

Our key recommendations are:

First, urgent action is needed to make the administration of the asylum and refugee system effective. Our recommendation is that this could be achieved via the creation of a new arms-length body to manage asylum applications and refugee resettlement. This would be a new humanitarian non-departmental public body (or separate public agency) – a UK Refugee Service – with at least

1,000 trained and senior refugee and asylum decision-making staff with clear career paths (including potential to work with international organisations).⁴⁵ Caseworkers should have named responsibility for cases⁴⁶ and sufficient resources to make high-quality and accurate decisions.⁴⁷ Staff at the UK Refugee Service would make decisions on spontaneous asylum claim (for example Channel crossings – see below) and manage planned refugee arrivals (i.e. refugees being resettled, for example via UNHCR programmes). The new agency would be judged on efficient and accurate decision making (including a priori decisions to accept claims from certain countries), effective management of planned arrivals, and an immediate focus on clearing the backlog via a new refugee fast track to quickly approve those with prima facie claims,⁴⁸ alongside a clear commitment to minimise use of costly contingency accommodation by reducing delays in decision-making.⁴⁹

There should be an immediate end to the Rwanda plan and a repeal of the mess of differing entitlements depending on route of arrival, returning the system to mainstream access for all those seeking asylum. This would likely free up considerable resource to be allocated more effectively to increase the pace of claim processing.

Although some of the proposed changes would come with a price tag, the current costs of system failure are enormous, and there is clear potential for savings within a relatively short period of time. Current costs of a failing

system include housing asylum seekers for extended periods due to backlogs in decision-making (as high as £2bn per year); the costs of the new Rwanda scheme (at least £140m); administering appeals and judicial reviews due to poor decision-making (as high as £100m per year); and the direct and indirect costs of the very high levels of staff turnover in decision-making roles. Staff time currently diverted to ineffective schemes such as the Rwanda plan could also be better deployed to clear backlogs and support effective decision-making.

Second, the UK should offer protection to refugees through a wider range of routes. This should include a commitment to 20,000 planned refugee arrivals per year. The UK Refugee Service would be responsible for resettling 20,000 refugees per year referred by UNHCR or a vetted referral partner, with a minimum number of people accepted by all local authorities in the UK. This would make real a UK commitment to safe routes – proposed but not delivered under the current Conservative government – and could be reviewed and agreed every three years in parliament. This would increase parliamentary oversight and cross-party cooperation.

In addition, the UK should create a single ‘community welcome’ route to enable communities to sponsor refugees. The UK Refugee Service would be responsible for administering a single, uncapped, additional, sponsorship route. This community welcome route would allow citizen groups (including

faith, charity and community groups as well as universities and employers) to sponsor refugees, building on existing schemes including the community sponsorship scheme and the Homes for Ukraine scheme, but not restricted to any particular nationality. Sponsorship also has the benefit of injecting community voice into the system and improves integration outcomes.⁵⁰

In line with wider international cooperation and economic contribution goals, there should also be a commitment to accepting refugee workers and academics. The UK Refugee Service would advise and support those with protection needs arriving with work permits or as students and academics – building on the tier 2 visa focused on refugee nurses and expanding the support for at-risk academics.⁵¹

Third, we need a new plan for tackling spontaneous high-risk maritime arrivals based on partnership with France and the EU. A new partnership with France and the European Union would include the UK joining the Asylum and Migration Management Regime⁵² (AMMR, or “Dublin 4”), whereby France and other EU countries accept that those who have been processed in the EU (ie fingerprinted for the purposes of an asylum claim) can be returned.

In return, the UK would provide more resources (including intelligence and funding) to disrupt smuggling routes, and agree to accept a minimum specified number of people from Europe via safe visa routes (with visa processing

in Europe). These safe visa routes would include (to ensure a manageable flow) humanitarian visas for some with strong prima facie cases to enable their cases to be determined in the UK, as well other visas (available at British embassies in Europe) for those who are eligible – for example, refugee worker visas (under the points-based system) and fast-track family reunion visas.

Fourth, we need fair, effective and consistent implementation of the rules. This will act as a deterrent to some who seek to circumvent the rules, and enable (and entail) consistent removal of those who are not eligible. It requires a consistent approach to returning those who do not meet the threshold for protection and cannot be returned under the AMMR system. It would start with a voluntary return option to provide humane returns to countries of nationality for those who do not qualify for refugee status in the UK alongside a specific returns agreement with countries as required to enable coercive returns.

In addition, we note the importance of an effective labour market enforcement approach (see below under economic contribution) which is an important element of deterrence, including against people smuggling and trafficking.

Finally, a clear refugee integration package (see below), including the right to work during the assessment of claims, a path to citizenship for all refugees, and well-resourced and valued partnerships with local government (including mandated acceptance of some refugees).

Tackling Channel crossings

It is clear that Channel crossings are the most immediate migration challenge facing the UK government. Channel crossings can broadly be described as a refugee route, insofar as most of those arriving by boat come from countries with high asylum acceptance rates. Forty-six thousand people crossed in 2022. The failures in prevention and disruption are many, and include failing to negotiate a replacement to the Dublin agreement following Brexit, not finding a diplomatic solution with France and the EU, failing to process claims effectively, failing to accommodate arrivals in a timely and decent fashion, failing to engage a coordinated response across different departments, and so on.

The consequences have been severe and include deaths of families (for example, the 27 deaths in November 2021, which included people of Afghan, Iraqi and Sudanese nationality) and suffering inflicted on new arrivals, such as the appalling conditions at Manston in Kent and other centres.

The lack of effective prevention and disruption of criminal gangs has made the problem more difficult to solve. The last two years have proven the viability of the route, created a market for organised smuggling gangs, and also compressed the time for response (crossings can now be arranged and carried out in days, for a price).

The Home Office's longstanding effort to create two classes of refugees (depending on route of arrival) has already created a mess of entitlements (for spontaneous arrivals this includes non-admissibility, temporary status and other public service bars). At the time of writing, the government has just announced that it will not introduce the 2022 version of this differentiation policy despite it being at the centre of the Nationality and Borders Act 2022 passed less than 12 months ago, an astonishing acknowledgement that the 2022 Act will be superseded before it has even been enacted. Failures in processing are creating delays which may now themselves be acting as a pull factor for some who do not have valid claims (because delayed decisions mean delayed enforcement), while harming those who do. Costs are being transferred from the Home Office to other departments (including the international aid budget), local government, charities and the taxpayer.

Policy measures to date have been ineffective and have included various efforts to engage the Navy in deterrent activity (unsuccessful) and the Rwanda plan (including ongoing efforts to reduce the scope for legal challenges to its implementation). The Rwanda plan is not offshore processing but rather forcible relocation to another territory. At the cost of at least £140m (likely a fraction of the actual cost to taxpayers), the Home Office has yet to forcibly relocate a single person to Rwanda. The lack of evidence for a deterrent effect (confirmed by every independent review and comparative data from other countries such as Australia) was explicit in the Home Office Permanent Secretary's decision to seek a ministerial order from the Home Secretary before the Rwanda plan could proceed.

SOCIAL BENEFIT

Under the second major policy goal – social benefit – which seeks to create a shared common future in the UK, we propose two key reforms.

1. Place citizenship at the heart of the immigration system
2. A community-based welcome strategy

First, establishing the acquisition of citizenship as a positive guiding principle of the whole migration system, ie ensuring that as many migrants as possible are supported to integrate on a path to citizenship.

Making the acquisition of citizenship an affirmative goal would ripple through the system in multiple positive ways (including changing culture). A goal of placing people on a track to citizenship and celebrating the acquisition of citizenship has comprehensive and significant implications for a range of functions and processes. It would reduce irregularity, reduce friction with public services, and increase the likelihood of migrants investing in their own human capital and in the communities where they live.

It would mean easing conditions and administration for in-country extensions and changes. For example, the Home Office could move all status and status adjustment decisions towards a five-year route to settlement and citizenship by default, reduce application fees on the route to citizenship to cover costs only (and make applications free for children) and remove all no recourse to public funds (NRPF) conditions on such routes.

This would offer immediate help to hundreds of thousands of young

people, in particular those who are entitled to citizenship but do not have it. It would also mean significantly reducing the number of temporary visa categories which do not offer routes to citizenship,⁵³ widening eligibility for family reunion and setting out clear expectations (on individuals and employers) as well as entitlements (eg to benefits) at different stages on the pathway to citizenship.

Another obvious reform to actively encourage naturalisation would be to make an accelerated citizenship offer to all those who have received settled status. There would also be value in reinstating birthright citizenship (with limited exceptions) as recommended by Alberto Costa MP's citizenship inquiry (providing an immediate safety valve to avoid future irregularity),⁵⁴ and celebrating the acquisition of citizenship as Thom Brooks sets out in a recent Fabian Society pamphlet⁵⁵ and also reversing changes that undermine citizenship for dual nationals. Current citizenship deprivation powers include the power to strip citizenship without giving notice and have already been used for offences unrelated to terrorism, for example those convicted in grooming gang cases. Furthermore, the power to strip citizenship from dual nationals or those that have the potential for dual nationality clearly disproportionately impacts minority groups. A recent proposal by Colin Yeo makes the powerful argument for a new Citizenship Act which could include these proposals and others.⁵⁶

A focus on reducing irregularity and promoting integration is also

incompatible with many aspects of the hostile environment.⁵⁷ We would support an immediate directive to the DVLA, landlords, the NHS and financial institutions to stop barring migrants from services according to (potentially erroneous) irregular status labelling. Government should also ensure access to physical proof of status.⁵⁸

Second, a new national strategy of community-based welcome agreed between national, regional and local government and civil society, with associated budgets devolved to match.

A focus on welcoming and belonging means widening the geography of welcoming and taking a systemic approach to harnessing the appetite of the wider public to get involved in supporting the inclusion of refugee and migrant families. It would mean making equality in access to services and the labour market the default position (with limited exceptions), focusing on relationships and communities, increasing the provision, quality and targeting of English language learning, and reforming NRPF conditions.

A community-based welcome strategy would fit and move in lockstep with a new national refugee policy (for example, requiring a minimum level of refugee resettlement in all local authorities) and with a single community welcome sponsorship scheme for all nationalities, as outlined above, but encompassing all new arrivals.

ECONOMIC CONTRIBUTION

Given that economic benefit is the clearest goal of the current system, pursuit of the economic contribution

goal would require less radical change. The key changes would be to adapt the points-based system to better connect with wider economic policy and support long-term growth, and to adjust visa policies to reduce exploitation and support workers' rights.

First, the UK should maintain an adapted points-based system for admitting migrant workers, but this should be explicitly orientated to increasing GDP per capita (not GDP in aggregate) by increasing productivity, linked to a long-term commitment to skills and training.

This means broadly accepting the current post-Brexit immigration system for work and study but adapting it to ensure that the system is flexible enough to respond both to the changing needs of the economy and to future shocks (for example, learning from the experience of the pandemic). This means that the points-based system would continue to focus on enabling the migration of higher-skilled workers, but government should make the system more flexible, for example by making it easier for people to move between visa categories (including between economic and non-economic categories).

It is not self-evident that high-skilled migration is better for the economy than low-skilled migration, and the UK's experience of free movement in the EU showed the economic (and fiscal) benefit of migration across the whole economy. However, if the underlying objective of UK economic policy is to increase productivity, then there are dynamic arguments for focusing on high-skilled migration, while encouraging training

and investment to increase productivity across the board. It should also be expected that other routes (eg youth mobility) could ease labour shortages in some lower skilled sectors.

However, urgent labour shortages in some sectors have already led to the extension of the points-based system into lower paid sectors and roles, and it is important to consider the potential impacts of this in the longer term. Adapting a proposal from the Migration Advisory Committee (MAC), we recommend setting a 'wage floor' 20 per cent above the national living wage for any visa-based routes in key target sectors. For example, it is clear from MAC analysis (and other evidence) that ongoing labour shortages in social care are in large part due to low wages. In this specific case, where wage rates are significantly influenced by government-set funding levels, it seems clear that recruitment from overseas is being used as a deliberate policy to avoid wage increases. Moreover, there is likely increasing labour exploitation (for example recruitment agencies charging migrants for visas). The solution to the crisis in social care can only come from radical reforms to funding levels and models, but in the current context, setting a wage floor for visas issued to this sector at 20 per cent above the national living wage would at least avoid the migration system being part of the problem.

While recognising that migration has wider economic value beyond simply filling skills gaps, the design and operation of the points-based system should be closely and explicitly

linked to skills policy and funding. It should incorporate new incentives for partnership between employers and government to increase training and skills development in shortage occupations/areas, with a focus on younger people.⁵⁹

Secondly, a commitment to tackle exploitation and support workers' rights needs to be translated into specific action in the migration system (and supported by policies and action in wider employment policy). The proposals outlined above to put more migrants on paths to citizenship would help to reduce exploitation, but further action will still be needed for groups who remain vulnerable.

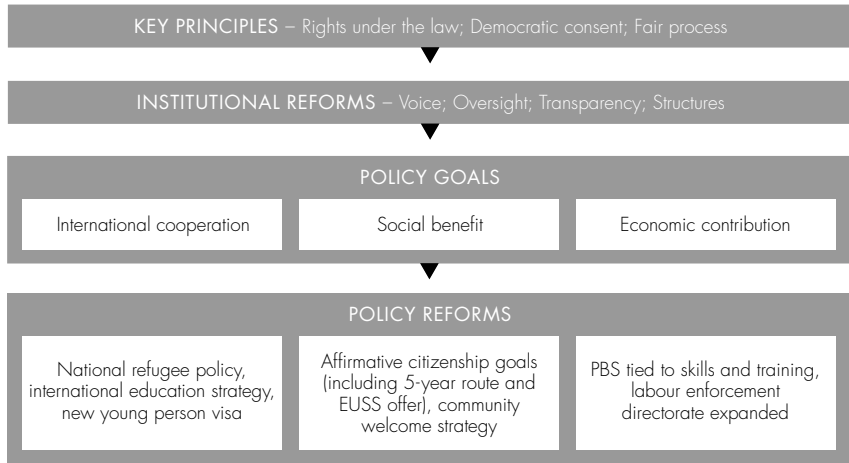
Lower-skilled (and lower-paid) workers, and those with short-term or restricted immigration status, are more vulnerable to exploitation. Low-skill visas should never be tied to specific employers, and new low-skill and short-term visa routes should be brought in in extremis only.⁶⁰ An immediate step would be to change the overseas domestic workers visa to reinstate the right for overseas domestic workers to switch employers. The Director of Labour Market Enforcement should have greater responsibilities and more resources. For instance, they could have a role in setting piece rates when they are in use, and could absorb the compliance team(s) of UK Visas and Immigration. This would further increase worker security, standards and pay in key sectors.

We recommend safe reporting standards through improved data firewalls and clear agreements between Home

Office and labour inspectorates⁶¹ and we support efforts to create fairer and more concrete residence permits for those cooperating with labour inspectorates (which could build on the existing, poorly implemented residence permit afforded to witnesses to exploitation in the Modern Slavery Act). There are a range of

other potential reforms to labour market enforcement⁶² and to safeguarding of existing policy and law (such as the Modern Slavery Act), and governments should prioritise this to ensure both that those without the right to work in the UK are not able to do so, and that they are not exploited by unscrupulous employers.

FIGURE 3: POLICY GOALS AND PRIORITY REFORMS



CHAPTER 6

IMMEDIATE ACTIONS FOR A NEW GOVERNMENT

We do not underestimate the challenges that will face a new government seeking to get to grips with migration policy. Even if the current government fulfils its recent pledges (for example to clear the asylum backlog) a new government will inherit an intimidating combination of urgent crises (Channel crossings), unmet promises (Afghan resettlement, implementation of the recommendations in the Windrush Lessons Learned), long-term drivers of people movement (conflict, including interplay with climate, labour shortages) and broken institutions and systems.

And if the policy and delivery questions are hard, the political questions are harder. A key insight from public attitudes research is that most people are 'balancers' with mixed views. If, as the polls suggest is likely, it is a Labour or Labour-led government that will next face the challenges of migration policy, they face a different political challenge from when they were last in power: they must bridge the gap between balancers

and supporters of immigration,⁶³ while at the same time ensuring that the migration system does not undermine perceptions of government competence. Labour's challenge is arguably easier as attitudes warm but recent events have also shown that specific crises can still quickly translate into elevated concerns (particularly when stoked by bad faith actors). However, the core point remains: underneath the day-to-day polarisation of the public debate, data on public attitudes suggest the emergence of an increasingly stable consensus about the benefits of migration to the UK and a pragmatic public view of policy.

Labour politicians can also take some comfort from the fact that over the last 12 months they have mostly (and unusually) held a polling lead over the Conservatives on this issue. The next government should have confidence that there is a path to a progressive and effective migration system that has meaningful democratic consent across

the four nations and can normalise migration as a public policy issue.

A new government can seize this moment for radical change in UK migration policy and be confident in setting a framework for a fair and lawful migration system built around the three goals of international cooperation (including a pragmatic approach to humanitarian migration), social benefit (making citizenship central to building a society of ‘all of us’, not a divisive ‘them and us’) and economic contribution; where rules are consistently and fairly applied by an accountable migration system.

As we argue above, many failings of migration policy and delivery spring from fundamental issues with institutions and systems. A new government would have the ability and the opportunity to act decisively to put accountability at the heart of a fair and lawful migration system, and to take quick action to implement reforms (for example full implementation of the Windrush Lessons Learned Review). But implementing the agenda set out in this paper will not be easy. A new Home Secretary should expect this to be a programme of work that will take a number of years, not least due to the backlogs and problems that will be inherited, and the complexity of current legislative frameworks. But there is a strong case for setting out a new vision for migration policy early in the life of a new government, not least because it would allow the mistakes of previous governments to be clearly disavowed.

Some policy changes (for example to the points-based system) could be

made relatively quickly, while others (for example putting citizenship at the heart of all of all migration policies) will take longer to work through, although a public commitment and some rule changes could be made immediately. There is a significant piece of work to be done to set out a detailed plan for legislation and implementation, including a thorough review of the current situation in the Home Office itself and planning for the important task of public engagement around change.

As we have emphasised throughout this paper, there is a huge amount of expertise and existing work that can be drawn on to develop this plan. Our intention here has been to set out a framework that enables politicians and policymakers to chart a course towards a more consistent, effective and compassionate migration policy, and to draw on the huge wealth of evidence and policy thinking which already exists as they do so.

On the first day of a new government, a series of immediate changes could foreshadow a new system based on the principles, accountability and goals. These could include:

- An immediate commitment to implement all Windrush recommendations;
- A new immigration rule offering the right to work for any asylum seeker in the UK after six months, from date of application;
- A new immigration rule to offer settlement after five years in the UK on any visa, with a fee waiver for ILR applications;
- An announcement by the Home Secretary (provided for by Order

in Council) that the fees of all citizenship applications will not exceed the cost of administering them and are free for those under the age of 18 on date of application;

- The lifting of NRPF conditions on any family with a British citizen child on date of application;
- The immediate implementation of a new online portal (that simplifies and improves the paper-based questionnaire sent to asylum applicants from Afghanistan, Eritrea, Libya, Syria and Yemen in early 2023) for any nationality with high acceptance rates and waiting more than 50 days for a decision.

In the first 50 days of a new government, a strategic review of the Home Office should take place using a ‘policy action team’ made up of parliamentarians, officials and former officials, experts, lawyers, regulators and civil society representatives (including refugee and migrant voices). This process should identify and greenlight, on a rolling basis, reforms that are (at least) cost neutral but advance the government’s principles and goals and do not require primary legislation.

A Green Paper on citizenship and immigration that outlines reforms to the system could be published within the first 100 days of a new government, drawing on the detailed work that has already been completed by experts in parliament, civil society and government commissions, and the rapid review undertaken by the policy action team.

The Green Paper would outline a new piece of legislation – a new Citizenship

and Immigration Act – that would repeal the cruel and unworkable Rwanda plan, most of the ineffective and unfair Nationality and Borders Act 2022 and the (live at the time of writing) Illegal Migration Bill and complete the simplification of migration legislation (as worked up by the Law Commission). It would likely require thinking about the architecture of existing primary legislation (the 1971 Act). A new government should plan for wide and deep engagement with devolved/regional/local government, employers, advocates, experts, communities and the public around the Green Paper, taking the opportunity to build and secure a mandate for change beyond Westminster and Whitehall. In parallel, a detailed review of Home Office and linked budgets would be needed to confirm that proposed changes would deliver the savings necessary to allow for additional resources in some areas (eg asylum decision making, integration support) and for the reduction of fees and costs in others (eg pathways to citizenship).

This work would then initiate a decade-long commitment to reform the migration system so it is fair and lawful and delivers on the three goals set out above. Accountability should be at the heart of this commitment. This will require institutional change across the piece (including some deep design thinking about the system), as well as confident political leadership of the public debate. We hope that this pamphlet provides a useful first step in setting out how this might be achieved.

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ENDNOTES

- 1 Institute for Government, forthcoming. The government's decision to fund significant elements of this from the separately capped ODA budget have reduced immediate budget pressures in Whitehall to resolve this situation.
- 2 Joe Tomlinson and Robert Thomas, *Immigration Judicial Reviews: An Empirical Study*, Nuffield Foundation, 2019
- 3 This is an area where Labour has a strong track record of proactive action (often working with Liberals and other progressive politicians, including on the centre right), for example in the passage of anti-discrimination legislation in the 1960s and 70s.
- 4 The evidence used for this is both survey and qualitative (focus groups). The typical survey question asked is: "who would manage immigration best?" followed by a list of political parties.
- 5 For some on the Conservative side (and as framed by the 2019 Conservative manifesto), this still means reduced immigration numbers, or reduced net migration, but control has not practically been seen that way by any of the three last prime ministers and the net migration target (dropped by Johnson) shows little sign of reappearing.
- 6 The foundation stone of the modern immigration system is the 1971 Act that provides the executive with significant rule making powers. Immigration rule changes can be found on the gov.uk website. In some years, more than 1,000 rule changes are made.
- 7 The government renamed the 'hostile' environment as the 'compliant' environment after the Windrush scandal.

- 8 This is among the highest on record (see immigration statistics, quarterly release), but it is likely to be temporarily high due to significant additional numbers of people from Ukraine and Hong Kong. Furthermore, net migration is a poor measure to inform policy and the UK is broadly similar to other high-income economies in terms of its share of migrants. See Net Migration to the UK Briefing, The Migration Observatory, December 2022
- 9 From January 2000 to March 2020. See Will Somerville and William Peter Walsh, United Kingdom's Decades-Long Immigration Shift Interrupted by Brexit and the Pandemic. Migration Policy Institute: Washington DC, August 2021
- 10 Prime ministerial statement, 13 December 2022
- 11 High fees have been significantly driven by attempts to self-finance the overall immigration system through above-cost charges for services to migrants.
- 12 Calling for a Shorter, More Affordable Route to Settlement for Children and Young People, We Belong, www.webelong.org.uk
- 13 For example, the limited evidence we have suggests refugee children are, on average, three years behind at school by the time they take their GCSEs. See The Educational Outcomes of Refugee and Asylum-Seeking children in England, Education Policy Institute, 2021
- 14 Windrush Compensation Scheme Data, January 2023
- 15 Windrush Lessons Learned Review: Progress Update, 31 March 2022. See also 'Hostile' Compensation Scheme Fails Windrush Victims, Human Rights Watch, April 2023
- 16 Immigration policy is broadly a reserved matter ie with limited roles for regional and local government, and the governments of Scotland, Wales and Northern Ireland.
- 17 Immigration After Brexit: Where are we going? UK in a Changing Europe, 2023
- 18 More in Common, Britons and Refugees, British Future, July 2022
- 19 See for example: Robert Ford and Marley Morris, A New Consensus: How Public Opinion has Warmed to Migration, IPPR, November 2022; Heather Rolfe, Sunder Katwala and Steve Ballinger, Shifting Attitudes: Tracking Attitudes to Immigration in 2022, British Future, October 2022; and UK Attitudes to Immigration: How the Public Became More Positive, Policy Institute, King's College, London 2023
- 20 YouGov tracker, yougov.co.uk
- 21 It remains to be seen to what extent these efforts will increase salience and/or affect attitudes in the short or long term.
- 22 Recent academic research confirmed an asymmetry in anti-immigrant versus pro-immigrant sentiment, where anti-immigrant sentiment is felt more intensely by such voters. Alexander Kustov, Do Anti-immigration Voters Care More? Documenting the Issue Importance Asymmetry of Immigration Attitudes, November 2021

- 23 John Burns-Murdoch, Britain is Now a High-Immigration Country and Most are Fine with That, *Financial Times*, 12 May 2022. See also Public Gives Truss and Braverman ‘Pragmatic Permission’ for Balanced Approach to Immigration, *British Future*, October 2022
- 24 Kerrie Holloway and Christopher Smart with Diego Faures, Claire Kumar and Amy Leach, ODI, *Public Narratives and Attitudes Towards Refugees and Other Migrants*, UK Country Profile, October 2021; see also: *More in Common, Britons and Refugees*, July 2022
- 25 The recent publication of the *Illegal Migration Bill 2023* is a recent example – noting on page 1 that the Bill may not be compatible with the Convention rights.
- 26 See for example Sheona York, *The Impact of UK Immigration Law: Declining Standards of Public Administration, Legal Probity and Democratic Accountability*, Palgrave Macmillan, 2022
- 27 Our proposals below to put citizenship at the heart of the migration system would reduce the number of migrants in the UK who find themselves disenfranchised. But recent changes to the franchise in Wales and Scotland should be a starting point for a wider conversation in the UK about residence-based rights to vote in different elections.
- 28 Polly Mackenzie, *UK Sanctuary: Reforming our Broken Asylum System*, Demos, November 2022
- 29 One of us made the case before: Will Somerville and Alasdair Murray, *Building the Future: Immigration and Integration in the Next Decade*, RAMP, 2018
- 30 Most recently, this has included the excellent work of Wendy Williams and her *Windrush Lessons Learned Review*, which provided a blueprint for many reforms, and which the government, after a shameful delay, accepted, before subsequently renegeing. There has also been work undertaken by civil society, think tanks, and research institutes. See for example, Joe Owens et al, *Migration After Brexit*, Institute for Government, 2019
- 31 Hansard: Immigration Debate, 15 December 1982
- 32 Immigration rules are not secondary legislation (which have to be scrutinised by committee); rather they are passed by negative resolution so are subject to less scrutiny than, say, changes to social security. Current rules run to more than 1,000 pages, more than quadrupling in a decade.
- 33 This could include a standing forum at the Administrative Justice Council to improve coordination in migration law functions. See Robert Thomas and Joe Tomlinson, *Reforming the UK’s Immigration System: The Case for an Administrative Fairness Agenda*, forthcoming (2023)

- 34 Will Somerville and Alasdair Murray, *Building the Future: Immigration and Integration in the Next Decade*, RAMP, 2018. The idea of triaging more effectively drew on work from the Institute of Government, itself drawing from debates with the Constitution Unit at UCL and the Hansard Society. An alternative, proposed by British Future and Hope not Hate, would be to raise the threshold of what constitutes secondary legislation – ie making it harder to move law through immigration rules and secondary legislation, which would require either not doing it or bringing primary legislation. See: Jill Rutter and Rosie Carter, *A National Conversation on Immigration: Final Report*, British Future and Hope not Hate, 2018
- 35 British Future and Hope not Hate proposed an annual migration day in Parliament and institutionalising community conversations (combing voice and oversight). See Jill Rutter and Rosie Carter, *A National Conversation on Immigration: Final Report*, British Future and Hope not Hate, 2018
- 36 Robert Thomas and Joe Tomlinson, *Reforming the UK’s Immigration System: The Case for an Administrative Fairness Agenda*, forthcoming (2023)
- 37 This reform would likely be achieved if the Chief Inspector of Immigration and Borders was placed on an more independent footing as recommended above.
- 38 We also support the recommendation that public law principles should be applied to algorithm-based decisions, including appropriate firewalls and equality assessments.
- 39 Recommended by Demos as a new UK Sanctuary Agency. See Polly Mackenzie, *UK Sanctuary: Reforming our Broken Asylum System*, Demos, November 2022. Recommendations to move processing to an arms-length body (also made by RAMP and Legatum Institute) also bring the benefit of a single budget (currently the budget is split between Home Office and the Ministry of Justice). The split budget is a system problem as poor decisions made by the Home Office are corrected (at appeals) in MOJ, ie costs are not borne by those making decisions, which breaks the ‘polluter pays’ principle.
- 40 There is a passionate field of more than 1,000 nonprofits in the UK seeking to support migrants and refugees to become part of UK society. We do not enable civil society or business, or indeed refugees themselves to become us and unleash their potential to all our benefit. See for instance *Unlocking Refugee Self-Reliance in the UK*, Refugee Investment Network.
- 41 The International Rescue Committee (IRC) notes for instance that the UK – as drafter and signatory to the Refugee Convention - has not led in recent years. For instance, they calculate that the UK will contribute just 1.2 per cent of the target to resettle 1 million refugees by 2028. From *Harm to Home: How the UK Government can Strengthen Resettlement and Integration*, IRC, 2022, The Legatum Institute advocates working with committed donor countries, while the US-led Resettlement Diplomacy Network – which the UK has committed to joining – is an example of a forum that could elevate key issues and seek improvements.
- 42 See for example the London Mayor’s *Social Integration strategy* and how it is measured. *Social Integration Measurement Toolkit*, GLA, 2021

- 43 Joint Council for the Welfare of Immigrants, *People Move Manifesto*, JCWI, 2019. Thom Brooks, *New Arrivals: A Fair Immigration Plan for Labour*, Fabian Society, 2022
- 44 The case for a national refugee policy was made recently by the Legatum Institute, lead authored by Professor Alexander Betts. Alexander Betts, Enver Soloman, Philippa Stroud and Will Somerville, *A National Refugee Policy*, Legatum Institute, October 2022
- 45 This would maintain the Sunak administration's commitment to at least 1,000 staff but at arms' length to restore trust and increase the speed of culture change.
- 46 See: UNHCR pilot, www.unhcr.org
- 47 Although these changes would come with a price tag, the current costs of system failure (for example the costs of housing asylum seekers for extended periods due to backlogs in decision-making, or the costs of administering appeals and judicial reviews) are enormous – there is clear potential for savings within a relatively short period of time.
- 48 As the Refugee Council notes, more than six in 10 channel crossers are given refugee status at the first point of adjudication. *The Truth About Channel Crossing*, Refugee Council, March 2023
- 49 These recommendations (for diplomatic agreement and backlog clearing) have been made consistently and effectively by a number of experts, including for example: Harvey Redgrave, *Fixing the Asylum System: A Workable Plan*, Tony Blair, Institute for Global Change, July 2022
- 50 This would allow community groups a direct role in the visa system, first introduced with the Homes for Ukraine scheme. The charity Reset makes a similar proposal. The future of community-led welcome: the case for a single UK refugee sponsorship scheme, *Reset*, November 2022. This recommendation also builds on the excellent work of the Global Refugee Sponsorship Initiative (led by the Canadian government and UNHCR) which has taken the lessons of the longstanding Canadian sponsorship programme to other countries.
- 51 Together with sponsorship, these recommendations would support the expansion of complementary pathways to refugee protection alongside resettlement. Such proposals would benefit from partnership with civil society actors like Talent Beyond Boundaries and CARA, as well as the Global Task Forces on Refugee Labour Mobility and Third Country Education Pathways. See for instance *Researchers at Risk* fellowships, British Academy.
- 52 It is obviously not in the UK government's gift to do this. However, Non-EU associated countries have opt-ins into Schengen as well as Dublin and while the UK has limited leverage as a third country, it is legally, operationally and politically possible.
- 53 Even most temporary visa categories (eg students or youth mobility) could have routes to citizenship via straightforward in-country applications to other visa categories (eg skilled work) where eligibility criteria are met. Strictly temporary visa routes might be limited to a very small set (eg seasonal agricultural workers).
- 54 *Barriers to Britishness: Report of the Alberto Costa Inquiry into Citizenship*, British Future, December 2020

- 55 Thom Brooks, *New Arrivals: A Fair Immigration Plan for Labour*, Fabian Society, April 2022
- 56 Colin Yeo, *It is Time for a new British Citizenship Act for the Post-Brexit Era Free Movement*, 17 April 2023
- 57 Sheona York, *The ‘Hostile Environment’: How Home Office Immigration Policies and Practices Create and Perpetuate Illegality*. 2018, *Journal of Immigration, Asylum and Nationality Law*, 32 (4)
- 58 Jed Meers, Joe Tomlinson, Alice Welsh, and Charlotte O’Brien, *Rights on Paper? The Discriminatory Effects of Digital Immigration Status on Private Landlord Decisions*, Administrative Fairness Lab, 2023
- 59 IPR report. This would dovetail with initiatives such as doubling medical places (as advocated by the think tank Policy Exchange).
- 60 Seasonal agricultural workers are the most obvious case for an exception here, although ongoing concerns about exploitation underline the importance of strong protections.
- 61 Recommendations have been well articulated in reports and briefings from campaigning nonprofits. See for example: Labour Exploitation Advisory Group, *Opportunity Knocks: Improving responses to labour exploitation with secure reporting*, April 2020. FLEX, LAWRS, JCWI et al, *Safety for Migrant Workers: the case for safe reporting mechanisms*, December 2022
- 62 Lindsay Judge & Hannah Slaughter, *Enforce for Good: Effectively Enforcing Labour Market Rights in the 2020s and Beyond*, Resolution Foundation, April 2023
- 63 Only around 10–15 per cent of Labour’s voting coalition could be described as strongly opposed to immigration. The Conservatives’ political challenge is to bridge between balancers and intense opponents of immigration. The political incentives for Conservatives to be ‘tough’ may also be higher than for Labour, to avoid challenger parties on the right and because the dividing lines are sharp. Immigration attitude polarisation has partly accelerated, as despite Conservative voters becoming more positive and liberal on immigration, progressive voters have shifted views faster so the perception gap is larger.

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He has written more than 60 articles and books on migration over the last 20 years and has advised more than a dozen governments in Europe and North America. This included two stints in the Prime Minister's Strategy Unit under prime ministers Tony Blair (2001–02) and Gordon Brown (2008–09) on migration and related issues. He is also the UK Director of Unbound Philanthropy.

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Migration policy in Britain is failing: it does not work for communities, it does not work for the economy, and it does not work for migrants themselves.

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